

### **351.1041 Mine Safety Review Commission.**

- (1) The Mine Safety Review Commission is created as an independent governmental entity attached to the Environmental and Public Protection Cabinet, Office of the Secretary, for administrative purposes. The commission shall:
  - (a) Conduct hearings and issue orders regarding a licensee, coal operation, or other person involved in the mining of coal in accordance with KRS 351.194;
  - (b) Jointly with the department establish a process for the department's referral of allegations of mine safety violations, violation of a miner's drug- and alcohol-free condition of certification, or supervisory personnel's failure to immediately report a fatal accident or an accident involving serious physical injury to the commission for adjudication;
  - (c) Make any recommendations to the department that it believes appropriate upon its review, consideration, and analysis of:
    1. All reports of coal mining fatalities provided by the commissioner under KRS 351.070(14);
    2. Any case in which a miner or a mine owner or operator, in the professional opinion of the department has a history of significant and substantial safety violations even though there has been no serious physical injury or death resulting from the violations;
    3. Any case in which a miner or a mine owner or operator has been convicted of a criminal charge for a violation of a federal mine safety standard or standards; and
    4. Any case in which the Federal Mine Safety and Health Administration has made a recommendation relating to certification of an individual certified under this chapter.
- (2) The Mine Safety Review Commission shall consist of three (3) members appointed by the Governor subject to the consent of the Senate and the House of Representatives in accordance with KRS 11.160. Of the members of the Mine Safety Review Commission first appointed under this section, one (1) shall be appointed for a term of one (1) year; one (1) shall be appointed for a term of two (2) years; and one (1) shall be appointed for a term of three (3) years. After the initial appointments, members of the board shall be appointed for terms of four (4) years. A member may be reappointed at the expiration of his or her previous term. Members shall continue to serve until a successor is appointed and qualified.
- (3) The members of the Mine Safety Review Commission shall have the qualifications required of Judges of the Court of Appeals, except for residence in a district, and shall be subject to the same standards of conduct made applicable to a part-time judge by the Rules of the Kentucky Supreme Court. The members shall receive the per diem equivalent of the salary of a Judge of the Court of Appeals for each day spent in conducting the business of the commission.
- (4) The Governor shall designate a member of the Mine Safety Review Commission to serve as chair and shall fill any vacancy in the office of chair.

- (5) The Governor may remove any member for good cause, including violation of the Code of Judicial Conduct and repeated failure to perform satisfactorily the specific duties assigned in this chapter or KRS Chapter 352. The Governor may remove the member only after furnishing him or her with a written copy of the charges against that member and holding a public hearing if requested by the member.
- (6) The commission shall meet on the call of the chair or a majority of the members of the commission.
- (7) The Environmental and Public Protection Cabinet shall provide administrative services to the Mine Safety Review Commission. If the commission deems it necessary to employ hearing officers to assist it, the Environmental and Public Protection Cabinet shall employ hearing officers to assist the commission in accordance with KRS Chapter 13B, notwithstanding the provisions of KRS 13B.030(2)(b).
- (8) The commission may conduct hearings, compel the attendance of witnesses, administer oaths, and conduct oversight activities as may be required to ensure the full implementation of its duties.
- (9) The department shall provide the Mine Safety Review Commission with all information requested by the commission for the fulfillment of its responsibilities under this chapter and KRS Chapter 352.
- (10) The secretary of the Environmental and Public Protection Cabinet shall effectuate the hiring of any staff deemed necessary and affordable for the efficient operations of the Mine Safety Review Commission. This may include an executive director, general counsel, or other administrative support positions, to be appointed in accordance with KRS 12.010 and 12.050.

**Effective:** July 12, 2006

**History:** Amended 2006 Ky. Acts ch. 241, sec. 12, effective July 12, 2006. -- Amended 2002 Ky. Acts ch. 353, sec. 1, effective July 15, 2002. -- Created 2001 Ky. Acts ch. 149, sec. 2, effective March 20, 2001.

**Legislative Research Commission Note** (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.